

Inter Robertum Williamson, Quer'  
Et Mr. Attorn General, Def.  
Upon a Writ of Error in Parliament.

The CASE of the Plaintiff, one of the Assigns of Sir Robert Vyner.  
For 60 l. per Annum, and the Arrears thereof, out of the Hereditary Revenue of Excise.

1667. Several Goldsmiths and others, having lent and advanced great Sums of Money to the Crown, upon the Credit of the Exchequer, and by encouragement of an Act of Parliament, for assigning Orders in the Exchequer, without Revocation, passed in the Year 1667. for which Moneys so lent, the Goldsmiths were Debtors to great numbers of his Majesty's Subjects, and particularly Sir Robert Vyner, one of the Goldsmiths was Debtor to the Plaintiff for Money really lent, the Sum of 1000 l.

1671. And there having been in January 1671. a stop put to the Payments in the Exchequer, whereby the said Sir Robert Vyner, and the rest of the Goldsmiths, were rendered unable to pay their Creditors:

1673. His then Majesty, King Charles the Second, (in Justice and Compassion to the Goldsmiths and their Creditors, and to remove the Miseries which attended the said Stop) was pleased to give directions in April 1676, to the then Lord High Treasurer, to cause the Accounts of the said Goldsmiths to be truly examined, and exactly stated, which was accordingly done by the then Chancellor of the Exchequer, Auditor of the Revenue, and other proper Officers of the Crown, (most of them being then Members of the House of Commons;) and a Report thereof being made to the King in Council, in February 1676.

1677. His then Majesty, in and about April 1677. by Letters Patents under the Great Seal of England, did grant to each of the several Goldsmiths, their Heirs and Assigns, and for the benefit of their Creditors, in lieu and satisfaction of the Moneys due to them from his said Majesty, a yearly Rent or Sum for ever, out of the Hereditary Revenue of Excise, equal in value to the Interest of their respective Debts, after the rate of Six Pounds per Cent. per Annum, with a Clause of Redemption upon his Majesty's paying the Principal Money, with the Arrears of Rent; the said Rents, or Annual Sums to be paid quarterly upon Tallies to be struck in the Receipt upon the Commissioners, &c. of the Excise; and directs and commands the Treasurer, &c. Barons and Officers of the Exchequer of the King, his Heirs and Successors, that they do from time to time perform all Acts necessary, for the constant Payment of the Money; and from time to time to levy and strike Tallies without any further Warrant; so that the yearly Sums may be constantly paid, without any further or other Warrant to be sued for, from the King, his Heirs or Successors: And if the Money should happen to be paid into the Receipt of the Exchequer, then that the High-Treasurer and Commissioners of the Treasury, Under-Treasurer, Chamberlains, and Barons of the Exchequer for the time being, and all other Officers and Ministers of the Exchequer, and of the Receipt thereof, are authorized and required to pay out of such Moneys as shall be so paid into the Exchequer, or elsewhere, so much as shall be in Arrear, without any further, or other Warrant; and the said Payments to be preferred before any other Payment out of the same, by virtue or colour of any Warrant, Order or Directions whatsoever, of any after-date, excepting for the management of the said Revenue, and about 36209 l. 15 s. 4 d. a year to then Queen Consort, and the Duke of York: Also his Majesty thereby granted, that the Letters Patents should be expounded and taken most favourably and beneficially for the Grantees; and covenanted to make further Assurance, if required; and on the 23 of May, 1677, ordered in Council, that the said Letters Patents should be printed, and made publick, for the information and satisfaction of the Creditors of the said Goldsmiths.

Also the Right Honourable the House of Peers, were pleased on the 10th of July, 1678, to pass a Bill for the confirming the said Letters Patents; but that Session ended before the said Bill was read in the House of Commons.

Whereupon many of the Creditors of the Goldsmiths (amongst others, the Plaintiff Mr. Williamson) deliver'd up their Securities for their Debts to the Goldsmiths, and the Plaintiff accepted of an Assignment from Vyner, in lieu of his 1000 l. Debt, pursuant to the said Letters Patents, of a proportionable part of the Annual Sums so granted; and which Sums were accordingly paid in the Reigns of King Charles the Second, and the late King James the Second, to July-day 1683. And in regard no Tallies or Monies could afterwards be obtained, upon due and repeated Application for that purpose,

1683. The Plaintiff Mr. Williamson, in Hilary Term, 1689, did commence his Suit in the Exchequer, by way of *Monstrans de droit*, (as had formerly been very often practiced) thereby setting forth his Title as Assignee under Sir Robert Vyner to the said 60 l. per Annum (being his proportionable part of the said Annual Sum so granted by the said Letters Patents) and prayed that the Arrears thereof might be paid unto him; and that the future growing Sums might also be paid according to the said Letters Patents

1690. Unto which Suit the then Attorney General (now Lord Chief Justice of the Common Pleas) had several Days and Terms given him to plead, or demur, as he should think best for the Crown; and at last a Demur being by him put in thereunto;

1691. The Cause had a long Agitation, and was argued for about two years, by the then Mr. Attorney, Mr. Solicitor, and others of the King's Council for the Crown, and also by Council for the Plaintiff, Mr. Williamson; and the Court after long deliberation, and view of the Precedents and Book Cases, produced and cited on both sides, in Hilary Term, 1691, gave Judgment for the Plaintiff, That the Letters Patents were good, and bound the Revenue; and that the Plaintiff ought to be paid the Arrears of the said 60 l. per Annum, and the growing Duty for the future.

Whereupon the then Attorney General on the behalf of His Majesty, brought a Writ of Error, Returnable before the then Commissioners of the Great Seal, who thereupon Ordered all the Judges to be attended with Copies of the Proceedings, and that they should give their Assistance at the Argument of the Cause: And after the Cause had been long and many times Argued by Council at the Bar, at last the Judges Assistants, severally and solemnly Argued the same, and were all of Opinion, (except the Lord Chief Justice of the Common Pleas) That the Letters Patents were good in Law, and that the Plaintiff had a good Title; and that the Judgment given in the Exchequer was good, and ought to be affirmed; And that the Plaintiff Mr. Williamson ought to be Paid his Arrears, and the future Duty according to the said Letters Patents and Judgment. But the Lord Chief Justice of the Common Pleas was of opinion that although the Grant or Letters Patents were good in Law, yet that the Plaintiff had not taken a proper Remedy, and that the Court of Exchequer had no Jurisdiction in this Cause. And the Right Honourable the then Lord Keeper, (now Lord Chancellor) having publicly Argued the said Cause, and being of the same opinion, as to the Jurisdiction of the Court, for that and several other Reasons offered by his Lordship, was pleased to Reverse the Judgment.

1696. Upon which Judgment of Reversal, the Plaintiff Mr. Williamson hath brought this Writ of Error in the House of Lords, and humbly hopes their Lordships will be pleas'd to Reverse the Judgment given by the Lord Chancellor, and affirm the Judgment given for the Plaintiff in the Court of Exchequer. Considering,

- I. That the Plaintiff is a Purchaser upon a full and valuable Consideration from Sir Robert Vyner the Patentee, having delivered up the Security he had for his Debt, and accepted the 60 l. per Annum in lieu thereof.
- II. That the Court of Exchequer (who are always exceeding careful of the Revenue, and the King's Interest, being more immediately bound thereunto by their Oaths, than the rest of the Judges are) upon mature and great deliberation, and search and view of many ancient Precedents, did solemnly Adjudge and Declare the Law to be, That the Letters Patents were good, and that the Plaintiff had taken a proper Remedy, and ought to be Paid his Annuity, and the Arrears thereof.
- III. That all the Judges called to the Lord Chancellors Assistance (except the Lord Chief Justice of the Common Pleas) upon several Days solemn Arguments and Debate, gave their opinions for the Plaintiff, in affirmance of the Judgment in the Exchequer; and that the said Letters Patents were good, and ought to be complied with, in Paying the said Annuity; and that the Plaintiff had taken a proper Remedy to Recover the same.
- IV. Even the opinion of the Lord Chief Justice of the Common Pleas was, (as is humbly conceived) that the Grant and Letters Patents were good, and Conveyed a Legal Right and Title to the Patentee, yet that this Right was without a Remedy, for that the Court of Exchequer had no Power over the King's Money, when it was brought into the Receipt, their Power being over it, as was Alledged, *in Transitu*, before Paid in, and only to enforce the Payment thereof; when as a Right and Title without a Remedy, (and no other Legal Remedy was pretended to be pointed out to the Plaintiff) seems contrary to all Laws, and to the Rules of Justice and Reason. And indeed it would be a hard thing to say that the Court of Exchequer can Relieve the King against the Subject, and not Help and Relieve the Subject, when he produces a Legal Title against the King. This hath not been the Practice of that Court, for near the last 200 Years.
- V. The Objections so much insisted upon, That the Lord Treasurer is Superior to the Barons, and therefore not to be commanded by them, to Pay Moneys; And that in case the Barons can dispose of the King's Money, it may weaken and prevent the Publick Security, when the Necessities of the State require it to be otherwise Employed; are thus Answered, That although the Lord Treasurer is a greater Person, yet he and all the Subjects are inferior to the King's Courts. That the Barons send this Command, as they are a Court of Justice, and in the name of the King himself; so that it is the King by His Writs, and not the Barons, that Command the Lord Treasurer in this Case: The Barons have no Power to dispose of the King's Money, but where they have a Warrant under the Great or Privy Seal (as in this case by the Grant and Letters Patents they have) for the doing thereof, so that the Court of Exchequer in this case, only takes care that the King's Grant and Letters Patents be made effectual, and that the Officers of the Crown do their Duties for that purpose, as by the said Letters Patents they are enjoyned to do.
- VI. This Cause in consequence must affect all Persons Claiming under the Crown, or having any Talleys or Orders upon or Payments out of the Exchequer; for all those will be made much better or worse, by the Judgment of the Lords in this Case.

Wherefore the Plaintiff humbly Prays, That the Judgment of the Reversal may be Reversed; and that the Judgment of the Court of Exchequer may be Affirmed.

Samuel Dodd